**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION.**

**CRIMINAL APPLICATION NO. 2370 OF 2004**

**IN**

**CRIMINAL APPEAL NO. 1551 OF 2003.**

Mr.Manoj Narayan Bhalekar : Applicant.

versus.

The State of Maharashtra : Respondent.

Mr.Girish Kulkarni for the applicant.

Mr.A.M.Shringarpure, APP, for the State.

**CORAM : D.G.DESHPANDE,J.**

**DATED : 13th August 2004.**

**P.C.**

1. Heard advocate for the accused and learned APP for the State. The accused has been convicted under Section 3(2) of the M.C.O.C. Act for being the member of the orgnized crime. The matter relates to the murder of Neeta Naik, the wife of Ashwin Naik, at the instigation of Ashwin

Naik and his gangmen.

2. The counsel for the accused contended that only part played by the present accused is that he was present at the time on the terrace from where other accused came down and shot at Neeta Naik. Confessional statement of the accused is the only peace of evidence against him and, according to him, the confessional statement does not at all implicate the accused or show that there could be any case under Section 3(2) of the MCOC Act.

3. The learned APP, however, contended that if the said confessional statement is read carefully, it will show that the accused was knowing the members of gang, who ultimately committed murder, from the beginning. He was with them from 13.11.2000. He was knowing about their activities. He also knew that Ekya and Santosh Pangerkar had revolver and that they had loaded the revolver. With this knowledge, along with other accused, he went to the building where Neeta Naik was staying. Thereafter one of the accused went out and brought something to eat with a chit. In that chit it was written that

others were to follow the directions given by Ekya and Neeta was to be finished [----------] within five days. This accused asked Ekya about the chit and Ekya told him that the chit was of Ashwin Naik and he has given orders to finish Neeta. This has taken place in continuation and in sequence and, from this it is clear that this accused was knowing that all the others had assembled on the terrace for the purpose of committing murder. He continued to be in their company; watching and waiting for Neeta to come and, as per his further confessional statement, at 12.15 there was a call on mobile phone of Ekya who told them that Neeta was arriving and she got the taxi at Dadar Railway Station along with other women. Then Neeta came to the building; she got down from the taxi; paid off the taxiwalla; entered the court yard of the building and at this time this accused gave intimation to others about her arrival. She was subsequently killed and thereafter this accused continued to be in their company for helping and assisting them. All these shows that this is not a fit case for bail. The application is rejected.

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